

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

CONSOLIDATION ORDER

BRIAN BROCK, *et al.*,
Plaintiffs,

IN RE CIRCULAR THERMOSTAT
ANTITRUST LITIGATION
MDL Docket No. C 05-01673 WHA

v.

HONEYWELL INTERNATIONAL, INC.,
Defendant.

No. C 04-05328 WHA

THOMAS FULLUM, *et al.*,
Plaintiffs,

v.

HONEYWELL INTERNATIONAL, INC.,
Defendant.

No. C 05-02076 WHA

I. ORDER OF CONSOLIDATION

- A. The above-captioned actions are hereby consolidated for pretrial and settlement purposes pursuant to Rule 42(a) of the Federal Rules of Civil Procedure. These actions and those of a like nature that may be consolidated with these actions shall be collectively referred to as “In Re Circular Thermostat Antitrust Litigation,” MDL No. 1673 and Master File No. M 05-01673 WHA.
- B. This order is made without prejudice to the right of any party to apply for a severance of any claim or action.

1 C. No action taken hereunder shall have the effect of making any person or entity a party to
2 any action in which he, she or it has not been named, served or added in accordance with
3 the Federal Rules of Civil Procedure.

4 **II. MASTER DOCKET AND SEPARATE ACTION DOCKETS**

5 A Master Docket is hereby established for the consolidated pretrial proceedings, both in
6 the actions consolidated herein and in all other cases filed in or transferred to this Court and
7 consolidated herewith for pretrial purposes (hereinafter, "the consolidated actions"). Entries in
8 the Master Docket shall be applicable to the consolidated actions as more fully set forth below.
9 Separate dockets shall also be maintained for each of these consolidated actions, and entries
10 shall be made therein in accordance with the regular procedures of the Clerk of the Court,
11 except as modified by Parts VI and VII of this order.

12 **III. MASTER FILE AND SEPARATE ACTION FILES**

13 A Master File is hereby established for the consolidated pretrial proceedings in the
14 consolidated actions. The Master file shall be Civil Action No. M 05-01673 WHA. The
15 original of this order shall be filed by the Clerk of the Court in the Master File. The Clerk shall
16 maintain a separate file for each of the consolidated actions, and filings shall be made herein in
17 accordance with the regular procedures of the Clerk, except as modified by Section II, above.
18 The Clerk shall file a copy of this order in each such separate file.

19 **IV. NEWLY FILED OR TRANSFERRED ACTIONS**

20 When a case that relates to the same subject matter as these actions is hereafter filed in
21 this Court or transferred to this Court from another district court, or otherwise ordered to be
22 consolidated with these cases, the Clerk shall:

- 23 A. Electronically file a copy of this order in the separate file for each action.
- 24 B. Make an appropriate entry in the Master Docket.
- 25 C. Upon the first appearance of any new parties, add them to the Master Docket and mail
26 the attorneys for the newly-added parties a copy of this order, if they have not already
27 been served electronically.
28

The Court requests the assistance of counsel in calling to the attention of the Clerk the filing or transfer of any case that might properly be consolidated for pretrial purposes with these actions.

V. APPLICATION OF THIS ORDER TO SUBSEQUENTLY FILED OR TRANSFERRED ACTIONS

This order shall apply to:

- Brian Brock, *et al.*, - v. - Honeywell International, Inc., No. C 04-5328 WHA;
- Thomas Fullum, *et al.*, - v. - Honeywell International, Inc., No. C 05-2076 WHA;
- to all other cases transferred to this Court pursuant to the order of the Judicial Panel on Multidistrict Litigation; and
- to all cases subsequently filed in or transferred to this Court which involve claims related to alleged antitrust violations in connection with defendant Honeywell's circular thermostats, or otherwise ordered consolidated with these cases unless a party objecting to the consolidation of that case or to any other provision of this order serves an application for relief from this order or from any of its provisions within ten (10) days after being served with a copy of this order.

VI. CAPTION OF CASES

- A. Every pleading filed in the consolidated proceedings, or in any separate action included herein, shall bear the following caption:

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

IN RE CIRCULAR THERMOSTAT
ANTITRUST LITIGATION

MDL Docket No. C 05-01673 WHA

_____ /
This document relates to:

- B. When a pleading is intended to be applicable to all actions addressed by this order, the words "ALL ACTIONS" shall appear immediately after the words, "This document relates to:" in the caption above. When a pleading is intended to be applicable only to some, but not all, of such actions, this Court's docket number for each individual action to which the pleading is intended to be applicable and the name of the named plaintiff in

1 the action shall appear immediately after the words “This document relates to:” in the
2 caption described above.

3 **VII. FILING AND DOCKETING**

4 A. When a paper is filed and the caption, pursuant to Section VI above, shows that it is to
5 be applicable to “ALL ACTIONS,” it shall be electronically filed in the Master File.
6 The Clerk shall make any notations, as necessary, in the Master Docket. No further
7 filings or docket entries are necessary.

8 B. When a paper is filed and the caption, pursuant to Section VI above, shows that it is to
9 be applicable to less than all of the consolidated actions, it shall be electronically filed
10 both in the Master File and in the file of each specific action to which the paper is
11 intended to be applicable.

12 **VIII. RULES OF PROCEDURE**

13 Except as otherwise provided herein or by further order of the Court, the Federal Rules
14 of Civil Procedure and the Local Civil Rules for the Northern District of California shall govern
15 all further proceedings herein.

16 **IX. ADMISSION OF ATTORNEYS**

17 Each attorney not a member of the bar of this Court who is acting as counsel for a
18 plaintiff or defendant herein shall be deemed admitted *pro hac vice* to practice before this Court
19 in connection with these proceedings, provided that the requirements of Civil Local Rule 11–3
20 are satisfied. Proposed orders for each attorney need not be submitted with applications.

21 **X. COMMUNICATION AMONG COUNSEL**

22 The Court recognizes that cooperation by and among plaintiffs’ counsel and by and
23 among defendants’ counsel is essential for the orderly and expeditious resolution of this
24 litigation. The communication of information among and between plaintiffs’ counsel and
25 among and between defendants’ counsel shall not be deemed a waiver of the attorney-client
26 privilege of the protection afforded attorneys’ work product, and cooperative efforts
27 contemplated above shall not in any way be used against any plaintiff by any defendant or
28 against any defendant by any plaintiff. Nothing contained in this provision shall be construed to

1 limit the rights of any party of counsel to assert the attorney-client privilege or attorney
2 work-product doctrine.

3 **XI. PROTECTIVE ORDER**

4 The stipulated protective order filed on May 27, 2005, and approved subject to stated
5 conditions on May 31, 2005, in the Master File shall be deemed to govern the two consolidated
6 actions listed above as well as any cases subsequently filed in or transferred to this Court by
7 the Judicial Panel on Multidistrict Litigation or otherwise ordered consolidated with these cases.

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9 **IT IS SO ORDERED.**

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11 Dated: June 24, 2005



12 WILLIAM ALSUP
13 UNITED STATES DISTRICT JUDGE
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